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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,792	10/05/2001	Ani Gonzalez-Rivera	736-3	3289
23869	7590	12/09/2005	EXAMINER	
<b>HOFFMANN &amp; BARON, LLP</b> 6900 JERICHO TURNPIKE SYOSSET, NY 11791				MAGUIRE, LINDSAY M
		ART UNIT		PAPER NUMBER
				3634

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/971,792	GONZALEZ-RIVERA, ANI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lindsay M. Maguire	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 October 2001.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7, 11 and 12 is/are rejected.  
 7) Claim(s) 8-10 and 13-17 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 05 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/8/02</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

This office action is in response to Provisional Application 60/238,834.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tozer U.S. Pat. No. 3,566,561.

Tozer discloses an apparatus capable of holding at least one fragile item comprising: a support frame (10); and a support panel (118) mounted within the support frame, wherein the support frame includes at least one elongated longitudinal channel (24) formed in an external surface thereof thereby providing an area of attachment to any portion along the channel of the support frame (the device of Tozer is fully capable of performing the function as set forth in claim 1, see Figures 1-5, and 9).

In regards to claim 3, the device of Tozer further includes at least one channel formed on each external surface of the support frame (24, 56, 62, 84).

Regarding claim 6, Tozer further discloses that the interior surface of the support frame includes a means for mounting the support panel within the support frame (Figure 4).

With respect to claim 7, Tozer discloses that the mounting means comprises an interior lip (46) for supporting the support panel (Figure 4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tozer U.S. Pat. No. 3,566,561, alone.

Tozer discloses an apparatus substantially as claimed above, with the exception of requiring that the support frame is an extrusion. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the support frame an extrusion for such basic reasons as manufacturing choice, economics, material constraints, etc.

Claims 4-5, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tozer U.S. Pat. No. 3,566,561 as applied to claims 1 and 2 above, and further in view of Gonzalez-Rivera U.S. Pat. No. 5,803,258.

Tozer discloses an apparatus for holding at least one fragile item substantially as claimed above with the exception of: (a) a fastening means for attaching accessory

parts to the support frame (claim4, lines 1-2); (b) a fastening means comprising a spring nut and bolt arrangement (claim 5, lines 1-2); (c) a means for mounting the support frame to a wall (claim 11, lines 1-2); (d) a transparent panel mounted to the support frame to create a display case (claim 12, lines 1-2).

Regarding (a), Gonzalez-Rivera discloses a fastening means (18) for attaching accessory parts to the support frame (Figure 1). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Tozer in view of the teachings of Gonzalez-Rivera for such basic reasons as stability, security, etc.

With respect to (b), Gonzalez-Rivera discloses that either a standard butterfly nut (30') or a custom nut (30) may be employed (column 8, lines 16-17). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a spring nut and bolt arrangement in view of the teachings of Gonzalez-Rivera which reveals that a custom nut, such as a spring nut could be used, for such basic reasons as part availability, economics, stability, etc.

In respect to (c), Gonzalez-Rivera discloses that hanging supports (46) in the shape of D-ring hangers may be positioned on the back side of the support frame (16, Figure 2) so that the support frame (16) may be hung on a wall with corresponding wall anchors (column 7, lines 19-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include hanging supports for mounting the support frame to a wall, in view of the teachings of Gonzalez-Rivera,

for such basic reasons as enabling the apparatus to be used for shipping, storage, display, etc.

Regarding (d), Gonzalez-Rivera discloses that the support frame (16) may also include an optional transparent panel, e.g. plexi-glass cover (Figures 1 and 2), which is held to the frame by fasteners (42, column 7, lines 17-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

#### ***Allowable Subject Matter***

Claims 8-10, 13-17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

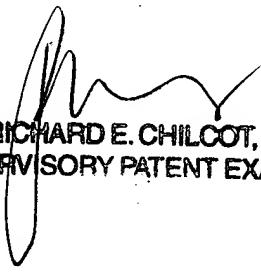
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Maguire whose telephone number is 571-272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMM  
12/2/05



RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER